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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/539,662	03/30/2000	Ricky F Combest	5249-2	8540

27557 7590 10/19/2005

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT PAPER NUMBER

2141

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/539,662

Applicant(s)

COMBEST, RICKY F

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 28-47 and 51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 28-47 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

#### ***(Withdrawal of Finality)***

*Applicant elected claims: 1-7, 28-47 and 51; of the elected claims, claim 1 has been amended.  
Claims 8-27 and 48-50 are non-elected.  
Claims 1-7, 28-47 and 51 are pending.*

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 8/15/2005, with respect to the rejection of claims 1-7, 28-47 and 51 under 35 U.S.C §103(a) have been fully considered and are persuasive. Therefore, the rejection and finality has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of *Weschler* (USPN 6,470,332) and *Kleinpeter III et al* (USPN 6,907,463).

### ***Restriction Election***

2. The Office acknowledges the receipt of Applicant's restriction election, filed on 5/12/2004. Applicant elects without traverse claims *1-7, 28-47 and 51*, hence, claims *1-7, 28-47 and 51* are pending and examined in the instant application. Claims *8-27 and 48-50* are non-elected and therefore will not be examined.

3. In response to Applicant's argument that the restriction is improper. Examiner respectfully disagrees, due to the distinctiveness of the claimed inventions as cited in the previous action. Therefore the restriction is sustained and made FINAL.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1-4 and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneider et al* (USPN 6,105,027) in view of *Weschler* (USPN 6,470,332).

a. **Per claim 1**, *Schneider et al* teach a dynamic virtual network on which participating members can establish partnerships, communicate, and share information, the network comprising:

- a network authority including a computer programmed for network administration (Abstract, col.8 lines 9-17 and col.13 lines 9-67; provision for virtual private network and network administration);
- at least a first network member and a second network member, each member including a computer comprising means for communicating over a global network (col.4 lines 43-62 and col.11 lines 29-39; provision for membership of network user);
- for each network access device and the network authority, an interface facilitating connection to a global network (col.7 line 31-col.8 line 39; each networked access device is connected to the network).

*Schneider et al* further teach at least a first network access device and a second network access device, wherein the first access device is accessible by the first network member and the second access device is accessible by the second network member (col.11 line 29-col.12 line 55). Yet, *Schneider et al* fail to explicitly teach that each of the first network access device

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and the second network access device storing information about the corresponding one of the first network member and the second network member such that the information is searchable by the other one of the first network member and the second network member. However, *Weschler* discloses users of a peer-to-peer type network implementing access sharing capabilities, wherein each user is has profile information stored on their network access device and each able to search and access the profile information of another user (col.5 lines 4-45, col.6 lines 32-65, col.7 line 31-col.8 line 63 and col.9 lines 15-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Schneider et al* and *Weschler* for the purpose of providing peer-to-peer communication and access; because it allows the members of a network to participate in file sharing, which permits the users to search and retrieve other users' stored information in the virtual network.

b. **Per claim 2**, *Schneider et al* and *Weschler* teach the network claimed in claim 1, *Schneider et al* further teach wherein the global network interface provides priority network transmission by connection to a commercial global network system, which provides business critical levels of service (col.2 lines 36-52, col.4 lines 59-63 and col.5 lines 3-18).

c. **Per claim 3**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach including communication between the first and second network access devices, and the network authority, which utilizes digital certificates (col.8 lines 9-12, col.10 lines 19-64, col.11 lines 18-40).

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d. **Per claim 4**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach wherein at least the first and second network members include means for exchanging public keys (col.10 lines 19-37).

e. **Per claim 7**, *Schneider et al* and *Weschler* teach the dynamic virtual network claimed in claim 1, *Schneider et al* further teach including means for enabling limited access to the member's information to other network members, while excluding nonmembers from access (col.3 lines 43-50; col.5 line 5-col.6 line 8 and col.7 lines 40-65).

6. Claims **28-36, 38-44, 47 and 51** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Kleinpeter III et al* (USPN 6,907,463) in view of *Schneider et al* (USPN 6,105,027).

a. **Per claim 28**, *Kleinpeter III et al* teach a method for forming a partnership between two dynamic virtual network members connected by a network, the method comprising:

- selecting a partnership criterion by the first network member (col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-38; user's request message is partnership criterion that initiates the agent selection process);
- broadcasting the partnership criterion by the first network member to other network members (col.7 lines 39-44; broadcasting of the request message includes a query with partnership criterion);
- receiving by a second network member the partnership criterion (col.1 lines 60-66 and col.7 lines 28-57; all nodes of the network received the request message, including the node able to fulfill the request);
- the second network member responding to the first network member (col.1 line 65-col.2 line 46 and col.7 lines 57-61; the node able to fill the request responds); and

- establishing a partnership relationship between the first network member and second network member (col.1 line 62-col.3 line 43, col.4 lines 27-63, col.7 lines 57-61 and col.8 line 22-col.9 line 36; upon receiving response from the responding node, a partnership is established via a connection of the ports from the active agent to the passive agent for handshaking and transfer instructions).

Yet, *Kleinpeter III et al* fail to distinctly teach virtual network members.

However, *Schneider et al* disclose a virtual private network with users forming a membership group (Abstract, col.4 lines 43-50, col.7 lines 42-65, col.11 line 29-col.12 line 56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Kleinpeter III et al* and *Schneider et al* for the purpose of implementing a virtual network with logical connections and access to other users and resources on the network; because it permits secure transparent communication for the users thereby creating a wide area network capable of spanning large geographic regions with many users.

b. **Claim 36** is substantially similar to claim 28 and is therefore rejected under the same basis (*Kleinpeter III et al*; col.1 lines 43-45, col.3 lines 22-55, col.4 lines 18-26, col.7 lines 28-38, col.7 line 67-col.8 line 3 and col.11 lines 43-50).

c. **Claims 38 and 39** are substantially similar to claim 36 and are therefore rejected under the same basis.

d. **Per claim 29**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the network members are connected to the network via a network access device, which denies network access to net non-members (col.3 lines 43-50, col.5 line 5-col.6 line 8 and col.7 lines 40-65).

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e. **Per claim 30**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's access drive (col.2 lines 30-45, col.6 lines 23-36, col.14 line 24-col.15 line 49 and col.18 line 11-col.19 line 45).

f. **Per claim 31**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step grants the first network member access to private data via the second network member's shared storage area (col.2 lines 30-45, col.6 lines 23-36 and col.12 lines 3-47; *Kleinpeter III et al*, col.6 lines 48-56 and col.8 lines 14-20 and col.10 lines 13-32).

g. **Per claim 32**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes transmittal by the first network member to the second network member of authorization to access private data on the first network member's network access device (col.9 line 56-col.13 line 8 and col.18 line 11-col.19 line 45).

h. **Claim 33** is substantially similar to claims 31 and 32 and is therefore rejected under the same basis.

i. **Per claim 34**, *Schneider et al* and *Kleinpeter III et al* teach the method for forming a partnership over the dynamic virtual network as claimed in claim 28, *Schneider et al* further teach wherein the establishment step includes permitting access by the first network



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member partner to role information of the second network member partner (col.6 lines 23-36, col.9 line 44-col.10 line 39 and col.13 line 10-col.14 line 63).

j. **Claim 35** is substantially similar to claims 32 and 34 and is therefore rejected under the same basis.

k. **Per claim 40**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein the archiving control element resides in the network access device (col.42 lines 48-62).

l. **Claim 41** is substantially similar to claim 40 and is therefore rejected under the same basis.

m. **Per claim 42**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Kleinpeter III et al* further teach wherein receiving and contemporaneously archiving the transmitted information includes sending a return receipt (col.5 lines 26-56 and col.9 line 56-col.10 line 6).

n. **Per claim 43**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach further comprising establishing a partnership between the first and second network members before the transmitting and contemporaneous archiving step (col.7 lines 42-65 and col.10 lines 3-18).

o. **Per claim 44**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed

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in claim 36, *Schneider et al* further teach wherein transmitting and contemporaneously archiving includes encrypting the information (col.4 lines 50-63, col.6 lines 9-22 and col.8 lines 19-27).

p. **Per claim 47**, *Schneider et al* and *Kleinpeter III et al* teach the method for conducting a transaction between network members over the dynamic virtual network as claimed in claim 36, *Schneider et al* further teach wherein receiving and contemporaneously archiving transmitted information includes transmitting the signed document to the first network member (col.10 lines 26-67; *Kleinpeter III et al*, col.2 lines 25-31, col.10 lines 13-25 and 64-67).

q. **Per claim 51**, *Schneider et al* and *Kleinpeter III et al* teach a method of claim 28, *Kleinpeter III et al* wherein the partnership criterion is expressed as a search, and wherein the step of receiving comprises performing the search at the second network member (col.1 lines 52-60, col.3 lines 60-67, col.4 lines 1-26 and col.7 lines 28-61).

7. Claims 5, 6, 37, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneider et al* (USPN 6,105,027) and *Weschler* (USPN 6,470,332) in further view of *Kleinpeter III et al* (USPN 6,907,463).

a. **Per claim 5**, *Schneider et al* (USPN 6,105,027) and *Weschler* teach the method of claim 1 as applied above, yet fail to explicitly teach wherein the network authority further includes a means for contemporaneously archiving a communication transmitted over the network. However, *Kleinpeter III et al* teach archiving communications transmitted over the network to a server or gateway (col.3 lines 22-55, col.7 line 67-col.8 line 3 and col.11 lines 34-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Schneider et al* and *Weschler* with *Kleinpeter III et al* for the

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purpose of contemporaneously archiving communications transmitted over a network, because this provisions the maintenance of the transmitted communications and also allows for the quick retrieval of communications that have been archived and the ability to handle interrupts by not starting a transmission over, but only transmitting data that is missing.

b. **Claim 6** is substantially equivalent to claim 5 and is therefore rejected under the same basis.

c. **Claim 37** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

d. **Claim 45** is substantially similar to claim 4 and is therefore rejected under the same basis.

e. **Claim 46** is substantially similar to claim 3 and is therefore rejected under the same basis.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: *Riddle* (USPN 5,857,189), *Jorgensen* (USPN 6,680,922), *Warris et al* (USPN 6,604,131), *Kley et al* (USPN 6,430,625), *Carter et al* (USPN 6,148,377) and *Rekimoto* (USPN 5,956,038).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristie Shingles*  
*Examiner*  
*Art Unit 2141*

*kds*

  
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